

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

PARKERSBURG DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL ACTION NO. 6:04-cr-127

KIRT R. KING,

Defendant.

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the Court is a motion, brought pursuant to 18 U.S.C. § 3582(c)(2), to reduce Defendant's sentence based on a subsequent reduction in the applicable sentencing guideline. On November 1, 2014, the United States Sentencing Guidelines were amended resulting in reductions in the guidelines in Section 2D1.1. The guideline reduction was given retroactive effect. Pursuant to the order entered on April 29, 2015, this case was designated for Standard consideration.

The Court has received the original Presentence Investigation Report (PSI), original Judgment and Commitment Order and Statement of Reasons, and addendum to the PSI from the Probation Office, and received any materials submitted by the parties on this issue. Defendant's original sentence is still below the new guideline range. Therefore, the Court finds the Defendant is ineligible for a sentence reduction.

Based on the foregoing considerations, the Court finds that the Defendant is ineligible for

a sentence reduction based on the 2014 amendments to U.S.S.G. § 2D.1.1. Accordingly, Defendant's motion for a sentence reduction [ECF 752] is **DENIED**. Further, Defendant's motion to hold in abeyance the motion for sentence reduction [ECF 753] is **DENIED AS MOOT**.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to the Defendant and counsel, the United States Attorney, the United States Probation Office, and the United States Marshal.

ENTER: July 12, 2016



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE